

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CANADIAN NATIONAL RAILWAY
COMPANY, a Canadian Corporation

Plaintiff,

VS.

VANTIX LOGISTICS, a subsidiary of
McLANE COMPANY, INC. and PEPSI
COLA CANADA BEVERAGES,

Defendants ..

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CASE NO. 07 CIV 8226 (KMK/LMS)

CIVIL ACTION

CLERKS CERTIFICATE

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on September 20, 2007 with filing of a summons and complaint, a copy of the summons and complaint was served on defendant by serving Cathy Henry, authorized agent for Pepsi Cola Canada Beverages, by way of process server on December 10, 2007, and proof of such service thereof was filed on January 17, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: _____

J. MICHAEL MCMAHON
Clerk of the Court

By: _____
Deputy Clerk

CAPEHART & SCATCHARD, P.A.
A Professional Corporation
Laurel Corporate Center, Suite 300
8000 Midlantic Drive - C.S. 5016
Mount Laurel, N.J. 08054
(856) 234-6800
Attorneys for Plaintiff
By: Armando V. Riccio, Esq.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CANADIAN NATIONAL RAILWAY
COMPANY, a Canadian Corporation

Plaintiff,

vs.

VANTIX LOGISTICS, a subsidiary of
McLANE COMPANY, INC. and PEPSI
COLA CANADA BEVERAGES,

Defendants ..

: **Electronically Filed Document**

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: **CASE NO. 07 CIV 8226 (KMK/LMS)**

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CIVIL ACTION

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: **REQUEST AND CERTIFICATIONS FOR**

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TO: CLERK
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10610

You will please enter the default of the defendant, PEPSI COLA CANADA
BEVERAGES, for failure to plead or otherwise defend the action in accordance with the Federal
Rules of Civil Practice, Local Rules of Court and individual practices of the Hon. Kenneth M.
Karas and the Hon. Lisa M. Smith.

CERTIFICATION

1. I am an Attorney-at-Law of the State of New Jersey practicing as part of the firm of
Capehart & Scatchard, P.A., attorneys for plaintiff, Canadian National Railway Company, Inc. in

the above-entitled action. I am thoroughly familiar with the facts and circumstances of the action. I make this Certification in support of our request that the Clerk of the Court enter a default against the defendant in the above-entitled action.

2. As reflected within the Court's records, I filed this action on behalf of plaintiff Canadian National Railway Company, Inc., against the defendants on September 20, 2007, including defendant PEPSI COLA CANADA BEVERAGES.

3. On October 5, 2007 copies of the following documents were served upon on defendant PEPSI COLA CANADA BEVERAGES via overnight delivery service:

- A. Two copies of a Waiver of Service Form and self addressed return envelope;
- B. Summons issued by the Clerk of Court for the above referenced lawsuit;
- C. Complaint for the above referenced lawsuit;
- D. Corporate Disclosure Statement Form;
- E. Judge Karas' Individual Rules of Practice;
- F. USDC/SDNY Instructions for Filing an Electronic Case or Appeal;
- G. USDC/SDNY Procedures for Electronic Case Filing;
- H. USDC/SDNY Guidelines for Electronic Case Filing.

4. The deadline for execution and return of the Waiver of Service form was November 16, 2007. Defendant PEPSI COLA CANADA BEVERAGES did not execute the waiver of service form.

5. On December 10, 2007 copies of the documents described above under paragraph 3 (A) through (H) were served upon on defendant PEPSI COLA CANADA BEVERAGES by process server as more appears from the affidavit of service previously filed with the Court on January 17, 2008.

6. The defendant PEPSI COLA CANADA BEVERAGES has not answered or otherwise moved as to the Complaint.

7. The time within which defendant PEPSI COLA CANADA BEVERAGES could answer or otherwise move as to the Complaint has expired and has not been extended or enlarged by the Court.

8. A proposed Clerk's Certificate for entry of Default against defendant PEPSI COLA CANADA BEVERAGES is attached hereto.

9. I have provided Courtesy copies of this request and the proposed Clerk's Certificate to Chambers of the Hon. Kenneth M. Karas and Hon. Lisa M. Smith via regular mail, as well as the Orders and Judgments Clerk. I also sent a copy of same to defendant PEPSI COLA CANADA BEVERAGES via first class mail.

I certify that the foregoing statements made by me are true. I realize that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

CAPEHART & SCATCHARD, P.A.
A Professional Corporation
Attorneys for Plaintiff

By: /s/ Armando V. Riccio
AR8852

DATED: March 26, 2008